

Sills Cummis & Gross

A Professional Corporation

The Legal Center
One Riverfront Plaza
Newark, New Jersey 07102
Tel: (973) 643-7000
Fax (973) 643-6500

101 Park Avenue
28th Floor
New York, NY 10178
Tel: (212) 643-7000
Fax: (212) 643-6500

Joseph B. Shumofsky, Esq.
Member
Direct Dial: 973-643-5382
Email: jshumofsky@sillscummis.com

April 3, 2024

VIA ECF

Honorable Michael A. Hammer
United States District Court
Martin Luther King Building & U.S. Courthouse
50 Walnut Street
Newark, NJ 07101

Re: *Nina Agdal v. Dillon Danis*, 23-CV-16873 (MCA)(MAH)

Dear Judge Hammer:

We represent Plaintiff Nina Agdal in the above-referenced matter. As Your Honor ordered at the February 9, 2024 status conference in this matter [D.E. 40, 43], we submit this status letter in advance of the upcoming status conference that is scheduled for April 10, 2024 to update the Court on the status of Plaintiff's dispute with non-party Joshua Wander.

As a reminder, Mr. Wander is the individual who took the explicit photograph of Plaintiff underlying several of Plaintiff's claims against Defendant Dillon Danis, including her claims for violations of the 2022 Violence Against Women Act Reauthorization. Plaintiff submits that the photograph was taken and shared without her consent. Plaintiff served Mr. Wander with a deposition subpoena in December 2023. Mr. Wander's counsel then filed an appearance in this case and requested a status conference to address the matter. [D.E. 34, 35]. Your Honor requested a joint letter from counsel about the dispute and then heard from counsel at the status conference on February 9, at which Mr. Wander's counsel argued a deposition would be unduly burdensome, disproportionate, and irrelevant. Your Honor observed that under Federal Rule 45, any dispute regarding the subpoena must be brought in the District where Mr. Wander resides.

Following the February 9 status conference, Plaintiff moved in the United States District Court for the Southern District of Florida to enforce Mr. Wander's compliance with the deposition subpoena. *See Agdal v. Wander*, 24-MC-20729-PCH-EGT (S.D. Fla.). Plaintiff's Motion was opposed by Mr. Wander. The matter was referred from United States District Judge

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Paul C. Huck to Chief United States Magistrate Judge Edwin G. Torres for disposition. At Mr. Wander's request, the Court sealed the briefing on Plaintiff's Motion. On March 28, 2024, the Court held an in-person hearing on Plaintiff's Motion, at which the Court granted the Motion and ordered that Mr. Wander sit for an in-person deposition by April 19, 2024.

As of the filing of this letter, the Court's order is not yet reflected on the docket. Plaintiff's counsel has requested and is currently awaiting agreeable deposition dates from Mr. Wander's counsel. Plaintiff's counsel notes that they have reached out three separate times for agreeable dates to this point, and have yet to hear back, notwithstanding that the Court ordered Mr. Wander to be deposed by April 19.

If any additional information would be helpful to Your Honor, please do not hesitate to let us know.

Respectfully submitted,

/s/ Joseph B. Shumofsky
Joseph B. Shumofsky, Esq.

/s/ Jeffrey A. Neiman
Jeffrey A. Neiman, Esq.
Admitted Pro Hac Vice

Counsel for Plaintiff

cc: Counsel for Defendant Dillon Danis (via ECF)
Counsel for Non-Party Joshua Wander (via ECF)